

REMARKS

Claims 1-10, 22-31, 43-44 and 53-58 were pending in the present application. Claims 1, 9, 10, 22, 30, 31, 43, 53, 54, 57 and 58 are amended herein. Accordingly, claims 1-10, 22-31, 43-44 and 53-58 are currently pending. No new matter has been added.

(1) Summary of Examiner Interview (37 C.F.R. § 1.133(b))

Applicant thanks the Examiner for conducting a telephonic Examiner Interview on May 6, 2010. The focus of the interview was a comparison of the elements of independent claim 1 and Adduci et al., U.S. Patent No. 7,343,334 (“Adduci”). Applicant discussed the amendments made to claim 1 in the Amendment Accompanying RCE filed on April 20, 2010. In particular, Applicant stated that claim 1’s sector-based elements, such as “determining an investment return per sector” and “selecting one of the wireless network sectors for capital investment,” differentiate claim 1 from Adduci, which discloses a service level analysis over a geographic region. Examiner stated that claim 1 may not sufficiently limit the broadest reading of the term “sector.” Examiner also stated that the claim’s recitation of “sectors” may be an intended use and not a limitation. Applicant proposed submitting this supplemental amendment to clarify the scope of a “sector” as recited by the claims.

(2) The Present Claim Amendments Clarify the Scope of the Term “Sector”

In Applicant’s previous amendment filed on April 20, 2010, Applicant fully addressed the differences between the independent claims’ “determining an investment

return per sector” and selecting or “identifying one of the wireless network sectors for capital investment,” versus Adduci’s service-level analysis over an entire geographic region.

In this amendment, Applicant amends independent claims 1 and 22 to further clarify the term “sector.” In particular, Applicant adds the following description of sectors to the first element of both claims: “the wireless network comprising multiple cell sites, each cell site having a coverage area divided into sectors, each sector having at least one cell site antenna serving that sector, the wireless network thereby comprising multiple sectors.” Basis for this amendment may be found, for example, in the specification on page 1, lines 15-24, page 4, lines 14-22, and figures 1 and 2.

Applicant respectfully asserts that this description is consistent with the standard use of the term “sector” in the wireless telecommunications industry. Applicant also asserts that this description further highlights the differences between the claims’ sector-based analysis versus Adduci’s service-level analysis over a geographic region. *See* Amendment Accompanying RCE, pp. 13-14 (April 20, 2010).

(3) Sector-Based Claim Elements Are Affirmative Limitations, Not Intended Uses

In the interview, Examiner stated that claim 1’s recitation of operating at a sector-level may be an intended use and not a limitation. Applicant strenuously disagrees. The recitation of, *e.g.*, “determining an investment return per sector for the one or more sectors” in claim 1 is not suggestive or optional, nor does it state an intended result. To the contrary, it limits the scope of the claim by requiring a specific and concrete step that must be performed. *See* M.P.E.P. § 2111.04. In other words, in “determining an

investment return per sector,” the operation on the “sector” is part of the execution of the step itself, not an intended result of the step.

Furthermore, as discussed above and in Applicant’s previous amendment, this language is material to patentability, and therefore it cannot be ignored by the Examiner in order to change the substance of the claim. *See, e.g., id.* Accordingly, Applicant respectfully requests that the Examiner take this language into consideration when reviewing Applicant’s claims.

(4) Conclusion

In view of the above, Applicant respectfully submits that claims 1-10, 22-31, 43-44 and 53-58 are patentable over the cited prior art. No new matter has been added by this amendment. If the Examiner should have any questions, please contact Applicant’s Attorney, Brian A. Carlson, at 972-732-1001. The Commissioner is hereby authorized to charge any fees due in connection with this filing, or credit any overpayment, to Deposit Account No. 50-1065.

Respectfully submitted,

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Date

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